

<b>COMSCINST 5102.1B</b>	<b>COG CODE N2</b>	<b>DATE 26 SEP 1990</b>
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**DEPARTMENT OF THE NAVY**  
 COMMANDER MILITARY SEALIFT COMMAND  
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COMSCINST 5102.1B  
 N2  
 26 September 1990

## COMSC INSTRUCTION 5102.1B

Subj: CONDUCT AND REPORTING OF INVESTIGATIONS

Ref: (a) JAGINST 5800.7B  
 (b) DODINST 6055.7  
 (c) CNO 102036Z JUN 83 (NAVOP 059/83)

1. Purpose. To establish standards and provide guidance for conducting and reporting investigations of accidents, injuries, property losses, mishaps and other incidents involving MSC operations.

2. Cancellation. COMSC Instruction 5102.1A.

3. Applicability. This instruction is applicable to Area and Subarea Commanders, Commanding Officers, Officers in Charge, Officers and other persons appointed to conduct investigations, and to Headquarters and subordinate command staff personnel charged with reviewing investigation reports.

### 4. Background

a. In the course of MSC operations, a variety of incidents may occur, such as collisions, groundings, stevedore damage (both to USNS and commercial ships), damage by ship repair contractors, vehicle accidents, deaths, personal injuries, and others. Incidents also may occur which may be devoid of any claims aspect but which give rise to issues involving improper seamanship; improper operation of ships systems; questionable management practices in accounting for funds or equipment; improper personnel practices; medical issues; contracting procedures; disciplinary issues, such as improper performance of duty, loss of Government funds; compromise of classified material; and others. The seriousness of these incidents varies widely, but any such incident may require the institution of corrective measures and procedures to prevent recurrences. Investigations may be required by references (a) and (b) or otherwise at the discretion of Commanders, Commanding Officer or other persons in charge. It is essential that MSC activities compile the essential facts and documents pertaining to any such incidents which could affect MSC operations in a timely manner.

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b. The principal purposes of investigations are to ascertain and memorialize facts needed to determine cause, fault, or liability; corrective or mitigative actions to be taken; capability to continue performance of missions; and to improve the Command through lessons learned. Chapters VIII and IX of reference (a) identify types of incidents where such as investigation is mandatory. In most cases, the appropriate fact-finding body will consist of one officer, pursuant to section 0204(d) of reference (a).

## 5. Policy

a. The paramount interest of COMSC is that the technical and legal abilities of COMSC and its Area and Subarea Commands be fully utilized to ensure proper evaluation of the facts; that COMSC be furnished with suitable recommendations for all necessary corrective action by all subordinate commands; and to ensure that reports are forwarded to higher authority, to the JAG, or to other agencies of the Government as required by existing regulations.

b. To minimize the expenditures of manpower and money, it is essential that the type and scope of an investigation be determined as soon after the incident as possible. Procedures shall provide for the routine handling of many incidents, yet ensure that findings, conclusions and recommendations that require COMSC cognizance or review are forwarded. This may be accomplished by preliminary investigations described in reference (a) or by procedures established by MSC Area or Subarea Commands.

## 6. Action

a. Investigation Necessary. Investigations will be ordered whenever required by reference (a) or other regulation including COMSC instructions, or whenever an investigation is otherwise deemed appropriate. Investigations deserve and will receive a high level of command attention, and will therefore be conducted with dispatch and thoroughness.

b. Responsibility for Ordering and Conducting Investigations. Upon receipt of a notice of mishap or notification of any event which meets the criteria of this instruction, Area and Subarea Commanders shall institute appropriate investigations commensurate with the severity of the mishap that occurs within their cognizance. They may seek appropriate guidance and assistance from other MSC commands, or COMSC when appropriate. In many cases, an administrative fact-finding body should be convened as prescribed by reference (a) and addressed to the Judge Advocate General of the Navy (Navy JAG). Such investigations are referred to as "JAGMAN" investigations. In some cases involving matters only of interest to MSC (e.g., a contract claim matter), an informal investigation may be conducted and addressed to COMSC rather than Navy JAG. Such investigations shall be in the format prescribed in Chapter VI of reference (a). These investigations can later be readdressed and forwarded to Navy JAG if appropriate. In other cases involving only minor incidents, a letter report to COMSC may suffice. No precise rule can be stated as to when a "JAGMAN" investigation should be instituted or when a less formal administrative report will suffice. Convening authorities are expected to exercise sound judgment, as guided by experience, in determining what type of investigation to order.

c. Appointing Orders. All appointing orders shall comply with Chapter V of reference (a) using the format of Appendix A-5-a. In addition, the appointing order shall specify the date by which the Investigating Officer is to complete the investigation, which date shall comply with paragraph 6(f) herein. COMSC shall be notified by message of all investigations instituted. When an investigation is initiated by a message appointing order, inclusion of COMSC as an "INFO" addressee will constitute such notification.

d. Appointment of Investigating Officers. Reference (a) authorizes the selection of officers, warrant officers, senior enlisted persons, and mature civilian employees as Investigating Officers to conduct informal investigations. Within the Military Sealift Command, in appointing a one-officer fact-finding body, the convening authority shall ensure that the Investigating Officer possesses an appropriate background of training and experience in the subject matter of the investigation. Investigating Officers must have sufficient experience in the type of activity out of which an incident requiring investigation arises, in order to know what the personnel involved should properly do. Investigating Officers must be capable of understanding the nature of any particular difficulties with which those persons were faced that had a bearing on their conduct. Specifically, only an officer with command at sea experience shall be appointed as Investigating Officer in any case in which a Master's performance of duty may be questioned. This background standard is essential to the statement of valid opinions and useful recommendations in the Investigating Officer's report. Guidance concerning applicability of the Privacy Act is contained in section 0308 of reference (a).

e. Relationship of Investigations and Disciplinary Action. Guidance concerning recommendations as to disciplinary action involving military personnel is found in Section 0608(e) of reference (a). With respect to civil service personnel, Investigating Officers shall take care to avoid the tendency to combine investigations with disciplinary action resulting from the same incident into a single action. The two are separate and must be so treated. Facts found by the Investigating Officer may be the basis for a separate disciplinary action by appropriate authority. The Investigating Officer may recommend in the report that "disciplinary action should be considered." The Investigating Officer shall not propose any specific disciplinary action with respect to civil service personnel.

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f. Timeliness

(1) All MSC investigations (whether or not denominated as a JAGMAN investigation) will be processed within the maximum time limits specified in reference (c). For convenience, those maximum time limits are set forth below.

**Date of incident/accident until submission of Investigating Officer's report to convening authority ..... Thirty Days**

**Receipt by convening authority to completion of convening authority's review ..... Thirty Days**  
**(Death Investigations) ..... Twenty Days**

**Each subsequent review -- from receipt by reviewing authority to completion of review ..... Thirty Days**  
**(Death Investigations) ..... Twenty Days**

(2) It is recognized that individual circumstances e.g., complexity of subject matter, availability of witnesses, remoteness of ship, risk of compromise of investigations required by regulations other than reference (a), logistic considerations and others, may necessitate deviations from above maximum time limits. Reasons for processing times exceeding limits will be documented by the responsible endorser. In the case of investigations involving death, disappearance or serious injury to personnel, the maximum time limits are mandatory. In the conduct of investigations involving time chartered ships and contractor operated USNS ships, it must be recognized that commercial insurance interests may be involved, and for that reason private sector personnel may refuse to provide statements or documents under their control. Difficulties of this nature should be brought to the attention of the convening authority immediately. The involvement of commercial insurance and a private sector operator may be a consideration in the time limits in these latter cases must be expressly requested and approved, in advance, by the immediate senior in command who will next review the investigation. All such requests and authorizations are to be included as enclosures to the report of investigation.

g. COMSC Staffing of JAGMAN investigations. All reports of MSC investigations will be forwarded to COMSC in an envelope or a package clearly marked "COMSC INVESTIGATION" or "JAGMAN INVESTIGATION." The COMSC mailroom will enter the investigation into the COMSC correspondence system and forward it to Counsel. Counsel will conduct an initial review and will assign primary responsibility for preparation of the endorsement (or final approval by COMSC) to the appropriate technical code (action code). This assignment of responsibility will be entered into the command correspondence tickler system. The action code will coordinate with other codes which are involved or have an interest in the incident under investigation, and will prepare a brief summary of the investigation's major findings, opinions and recommendations; the staff's recommendation for disposition; and an appropriate endorsement (or letter of approval to the convening authority) for signature by COMSC. The endorsement or letter shall address all findings of fact, opinions, recommendations, and, as appropriate, modifications and/or action by previous endorsers. It shall state reasons for any disapproval, non-concurrence, or disagreement with any of the foregoing. When the action code determines, after an initial review, that the incident under investigation involves issues under the cognizance of other codes, the action code will task the appropriate code to analyze the Findings of Fact, Opinions and Recommendations of the Investigating Officer and the actions by previous endorsers, and respond to the action code within fourteen (14) calendar days. If the appropriate code(s) disagrees with any of the foregoing, that code shall provide to the action code its reasons therefor, in a clear, cogent, well written form suitable for incorporation directly into the synopsis and the COMSC endorsement. After staffing through appropriate codes, all MSC Inspector General and then Counsel before submission to N00. Counsel will also provide assistance to the action code in preparation of the endorsement, if requested. The action code will ensure that the synopsis and endorsement (or letter of approval), ready for signature, is delivered to the Flag Secretary not later than three weeks from the date the investigation was received by COMSC. After signature by COMSC, the investigation fill will be returned to Counsel for retention.

7. Reports. The reporting requirement prescribed by this directive is RCS MSC 5102-1 and is effective for three years from the date of this instruction.

Distribution:

COMSCINST 5000.19

List I (Case A, B)

SNDL 41B (MSC Area Commands)  
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